

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 35836

STATE OF IDAHO,	)	2010 Unpublished Opinion No. 383
	)	
Plaintiff-Respondent,	)	Filed: March 16, 2010
	)	
v.	)	Stephen W. Kenyon, Clerk
	)	
ROBIN JANE POPE,	)	THIS IS AN UNPUBLISHED
	)	OPINION AND SHALL NOT
Defendant-Appellant.	)	BE CITED AS AUTHORITY
	)	

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Appeal from the District Court of the Fourth Judicial District, State of Idaho, Valley County. Hon. Thomas F. Neville, District Judge.

Order relinquishing jurisdiction, affirmed; order denying I.C.R. 35 motion for reduction of sentences, affirmed.

Stephen D. Thompson, Ketchum, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

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Before LANSING, Chief Judge; GUTIERREZ, Judge;  
and GRATTON, Judge

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PER CURIAM

In this case, we are asked to determine whether the district court abused its discretion in refusing to grant probation following a period of retained jurisdiction and to review concurrent unified sentences of fifteen years, with minimum periods of confinement of three years, for two counts of aggravated driving under the influence (DUI). We are also asked to review the district court's order denying an I.C.R. 35 motion for reduction of sentences. We affirm.

Robin Jane Pope pled guilty to two counts of aggravated DUI. I.C. § 18-8006. Following her pleas, Pope was sentenced to concurrent unified terms of fifteen years, with minimum periods of confinement of three years. The district court retained jurisdiction for 180 days, and Pope was sent to participate in the rider program.

After Pope completed evaluation, the district court relinquished jurisdiction. Pope filed an I.C.R. 35 motion for reduction of her sentences, which the district court denied. Pope appeals, claiming that the district court erred by refusing to grant probation, that her sentences are excessive, and that the district court erred in denying her Rule 35 motion.

We note that the decision to place a defendant on probation or whether, instead, to relinquish jurisdiction over the defendant is a matter within the sound discretion of the district court and will not be overturned on appeal absent an abuse of that discretion. *State v. Hood*, 102 Idaho 711, 712, 639 P.2d 9, 10 (1981); *State v. Lee*, 117 Idaho 203, 205-06, 786 P.2d 594, 596-97 (Ct. App. 1990). The record in this case shows that the district court properly considered the information before it and determined that probation was not appropriate. We hold that Pope has failed to show that the district court abused its discretion in relinquishing jurisdiction.

Pope also contends that her concurrent unified sentences of fifteen years, with minimum periods of confinement of three years, are excessive and constitutes an abuse of discretion. Sentences are reviewed for an abuse of discretion. Our appellate standard of review and the factors to be considered when evaluating the reasonableness of a sentence are well-established. *State v. Burdett*, 134 Idaho 271, 1 P.3d 299 (Ct. App. 2000); *State v. Sanchez*, 115 Idaho 776, 769 P.2d 1148 (Ct. App. 1989); *State v. Reinke*, 103 Idaho 771, 653 P.2d 1183 (Ct. App. 1982); *State v. Toohill*, 103 Idaho 565, 650 P.2d 707 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 726, 170 P.3d 387, 391 (2007). Pope argues that all of the relevant goals of sentencing could have been accomplished with probation. As noted above, however, the district court found that probation was not an appropriate course of action in Pope's case. The record does not indicate that the district court abused its discretion in this case.

Finally, Pope argues that the district court erred in denying her Rule 35 motion for reduction of her sentences. A motion for reduction of sentence under I.C.R. 35 is essentially a plea for leniency, addressed to the sound discretion of the court. *State v. Knighton*, 143 Idaho 318, 319, 144 P.3d 23, 24 (2006); *State v. Allbee*, 115 Idaho 845, 846, 771 P.2d 66, 67 (Ct. App. 1989). In presenting a Rule 35 motion, the defendant must show that the sentence is excessive in light of new or additional information subsequently provided to the district court in support of the motion. *State v. Huffman*, 144 Idaho 201, 203, 159 P.3d 838, 840 (2007). In conducting our review of the grant or denial of a Rule 35 motion, we consider the entire record and apply the

same criteria used for determining the reasonableness of the original sentence. *State v. Forde*, 113 Idaho 21, 22, 740 P.2d 63, 64 (Ct. App. 1987); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984). Pope has failed to show that the district court abused its discretion.

The order of the district court relinquishing jurisdiction, Pope's sentences, and the order denying Pope's Rule 35 motion are affirmed.